



SPECIAL PROVISIONS NO. 73839

May 20, 2003



SPECIAL PROVISIONS NO. 73839
CCF/LDCC Cooling Plant Modifications Project

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Appendix 1, *Confined Space Guide*

Appendix 2: *Lightning Hazard and Safety Guideline*

Appendix 3: *Fall Protection Guide*

Appendix 4: *Electrical Safety Program*

Note: Please note that the terms, “University,” “Los Alamos National Laboratory,” “LANL,” and “Laboratory” are used herein interchangeably.

SP-1, Reserved

SP-2, Reserved

SP-3, Reserved

SP-4, Safety and Health Requirements

A. Definition. For the purposes of this Contract, the University's safety and health requirements are:

1. The U.S. Department of Labor's Occupational Safety and Health Standards, 29 CFR 1910, and Safety and Health Regulations for Construction, 29 CFR 1926; and
2. Such other safety and health requirements as are specified in this Contract.

B. Contractor's Responsibility for Safety and Health

1. The Contractor shall be responsible for the safety and health performance of its lower-tier subcontractors, and for ensuring that all workers at the construction site comply with the Contractor's Safety Program.
2. The Contractor shall be responsible for all claims, demands, causes of action, and suits, of whatever nature, and for all fines, penalties, and monetary damages assessed by any regulatory authority, resulting from noncompliance at the construction site with the University's safety and health requirements or the Contractor's Safety Program, and the Contractor shall indemnify and hold harmless the University from all such claims, demands, causes of action, suits, fines, penalties, and monetary damages to the extent caused in whole or in part by acts and omissions of the Contractor or any of his subcontractors, unless arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications by the University or its agents or employees, or out of the giving of or failure to give directions or instructions by the University or its agents or employees, where such giving or failure to give directions or instructions is the primary cause of bodily injury to persons or damage to property.

C. Stop Activity. The Contractor shall ensure that all workers at the construction site are informed that they should stop work activity if:

1. An imminent danger exists;

2. A change in work conditions may impact worker health and safety or the environment;
3. An existing environment, safety or health hazard cannot be controlled; or
4. A new environment, safety or health hazard is identified.

D. Contractor's Safety Program. The Contractor shall establish and maintain a Safety Program, approved by the University, to protect all persons on the construction site. The Safety Program shall also protect against damage to property, supplies and equipment, and shall prevent unnecessary work interruptions. The Contractor shall submit the documentation of its Safety Program for review by the University no later than ten days after the notification of award. The University shall approve the Contractor's Safety Program upon a finding that it assures compliance with the University's safety and health requirements. A Notice to Proceed shall not be issued until the University has approved the Contractor's Safety Program. The Safety Program documentation, which shall be submitted for University approval and thereafter kept available at the construction site for reference by workers, includes the following:

1. Activity Hazard Analysis (AHA). The Contractor shall provide an Activity Hazard Analysis that evaluates the work associated with each project phase by identifying specific hazards that may expose work-site employees or other work sites to danger, and identifying appropriate control measures. (*See Laboratory Implementation Requirements LIR 402-10-01.4, Hazard Analysis and Control for Facility Work.*) The AHA must be signed by an authorized representative of the Contractor and each lower-tier subcontractor having an employee subject to the AHA, certifying that the Contractor and subcontractor have reviewed, concur with, and will conform their employees' conduct and performance of work to the stated requirements. The AHA shall include:
 - a) Site hazards (identified by the LANL work requester) and site controls.
 - b) Task hazards and controls associated with the work to be performed (identified primarily by the Contractor).
 - c) Permit requirements (*see below*).
 - d) Training requirements (*see below*).
 - e) Personal protective equipment requirements (*see below*).
 - f) Drawings or other documentation of protective measures required by contract or

OSHA standards.

g) A Lightning Hazard and Safety Plan to protect its workmen during lightning storm conditions, required ONLY if the work creates a special exposure to lightning hazard. (See Appendix 2, *Lightning Hazard and Safety Guideline*)

2. Activity Hazard Analysis Change. The Contractor shall revise the AHA when a work activity has changed due to changes or modifications to the original scope of work or identification of additional hazards during the course of the project. The Contractor shall not conduct the affected work activity until the University has approved the amended AHA.
3. Safety Representative. The Contractor shall designate and describe the qualifications of its representative who will administer the Safety Program at the construction site.
4. Inspections and Sampling. The Contractor shall provide a schedule of exposure sampling and daily safety and health inspections to be conducted by the Contractor's safety representative during work time, and provisions to maintain records of any violations of safety and health requirements noted in the inspections and subsequent corrections. These records shall be provided to the Contract Administrator's Engineering Representative once a week and copies kept at the construction site for review by the University's safety inspector.
5. Safety and Health Meetings. The Contractor shall provide a schedule of safety and health meetings, which shall be conducted weekly or more often with all onsite construction personnel (including subcontractors), to emphasize safety and health requirements and fire prevention. The schedule of meetings and minutes of each meeting (including names of participants) shall be provided to the Contract Administrator's Engineering Representative once a week and copies kept at the construction site for review by the University's safety inspector.
6. Safety Certification Program. The Contractor shall provide a description of the Contractor's program for certifying the safe operating condition and proper maintenance of earth-moving equipment, cranes, vehicles, pressure vessels, protective devices for portable electrical tools, and other portable equipment. Copies of the records of equipment maintenance and inspections shall be kept at the construction site for review by the University's safety inspector.
7. Illumination, Noise Control, and Housekeeping. The Contractor shall provide a description of the Contractor's program for ensuring adequate illumination, noise control, and housekeeping in work areas.

8. HazCom Program. The Contractor shall provide a description of the Contractor's Hazard Communication (HazCom) program to identify, and inform and train employees about, hazardous materials, gases, or liquids that may be introduced, produced, or encountered in the work area, as required by the OSHA Hazard Communication Regulation, 29 CFR 1910.1200. This program must indicate how the Contractor will protect workers and the environment from these potential hazards. Copies of training records and certifications showing that employees have met all required training requirements for the use and handling of toxic or hazardous materials, gases, or liquids shall be kept at the construction site for review by the University's safety inspector.
9. Personal Protective Equipment. The Contractor shall provide a description of the Contractor's procedure for ensuring proper usage of personal protective equipment, as follows:
 - a) All workers within the construction site or area must wear personal protective equipment at all times, including hard hats, eye protection, safety shoes, and protective clothing (long pants and shirts with sleeves covering the shoulders). Large signs must be posted informing anyone entering the site of this requirement.
 - b) Workers must use additional protective gear, such as ear protection, respirators, face protection, and gloves, as appropriate.
10. Permits and Procedures. The Contractor shall provide a list of the permits and procedures that must be acknowledged or approved by the University prior to conducting project activities. Unless otherwise provided in writing by the Contract Administrator, the Contractor shall initiate action to obtain the University's approval of permits, including the submission of standard operating procedures when needed, before the anticipated date of a covered activity. The following activities require permits or approval of procedures:
 - a) Confined Space Entry. The Contractor must have a confined space entry plan approved by the University in accordance with LANL Administrative Requirement 8-1, Confined Spaces, for any confined space activity that contains:
 - (1) or has a potential to contain a hazardous atmosphere;
 - (2) a material that presents an engulfment hazard;
 - (3) an entrapment hazard; or
 - (4) any other serious health or safety hazard.

(See Appendix 1, *Confined Space Guide*.)

- b) Excavation. The Contractor must have a LANL permit for any excavating, trenching, saw cutting, core drilling, or jack hammering operation that will penetrate ground, slabs, or floors, to ensure that any existing utilities are located and marked.
 - c) Spark/Flame Producing Operations. The Contractor must have a LANL Special Work Permit for any spark- or flame-producing operations that constitute a fire hazard, unless such operations are covered by a standard operating procedure (SOP) or conducted in areas designed for such operations. Additional Special Work Permits are required if such work is to be performed in a limited egress/confined space or an area from which explosives have not been removed, or involves the use of radioactive or hazardous materials, unless these special considerations are covered in the applicable SOP.
 - d) Energized Electrical Work. The Contractor must have a LANL special electrical work permit (SEWP) to perform any energized electrical work, including diagnostics and testing of energized equipment.
11. Lockout/Tagout (LO/TO) of Hazardous Energy Sources. The Contractor must implement the LANL LO/TO program that addresses all hazardous energy sources (not limited to electrical circuits) LIR 402-860-01.0, "Lockout/Tagout for Personnel Safety" will govern all work requiring LO/TO. Implementation of the LANL LO/TO program requires personnel who will have a need to control hazardous energy sources to be trained by LANL ESH-13 EDS Course 13337. Equipment that is powered electrically, pneumatically, or hydraulically must be locked out and/or tagged when it is to be shutdown for secondary installations, tie-ins, or test shutdowns and when personnel could be endangered by inadvertently energizing this equipment. Exemption: Contractors performing "greenfield construction" may submit their own written LO/TO program consistent with 29 CFR 1910.147 for review and approval by LANL, or may elect to implement the LANL program.
12. Penetrations. If penetrations are to be made in walls, ceilings or roofs, the Contractor's superintendent must evaluate each surface by consulting records, as-built drawings, engineering plans, visual observations, testing meters, or other means to determine if hidden utilities or other hazards may be present. If utilities are determined to be present, they must be de-energized before the penetration is made. When a positive determination cannot be made that no utilities are present, the Contractor must treat the penetration as blind and provide employees with appropriate personal protective equipment (e.g., approved and appropriately rated rubber insulated gloves with outer leather gloves, eye protection, rubber outer boots). In addition, only double insulated power tools, and nonconductive ladders and other equipment may be used while

performing such penetrations. If any unknown hazard is suspected or encountered (e.g., warning tape, concrete covering on high or medium voltage lines), the Contractor must suspend work immediately until the proper controls are applied to eliminate the hazard.

13. Discipline and Discharge. The Contractor shall provide a description of the Contractor's procedure for removal of careless or incompetent employees.
14. First Aid Program. The Contractor shall provide a list of employees available at the site who are currently certified to administer first aid, and provisions for emergency services, including availability of a person or persons trained in first aid and CPR onsite at all times when work is being done. The names of these persons must be posted at the construction site. Not having such a person present shall be grounds for a stop work order by the University.
15. Fire Prevention Program. The Contractor shall provide a description of its fire prevention program, including:
 - a) A method for alerting employees and the local fire department in case of a fire.
 - b) Instructions for notifying the fire department, to be posted on all telephones. Personnel must be instructed on the first day that they are onsite.
 - c) Notification of Station 7 (Fire Department) as to the location of the site.
 - d) Identification of all activities and materials that may cause fires, and fire prevention precautions to be taken.
 - e) Provisions for maintaining clear access to all areas for fire engines and hose lines.
 - f) Provisions for the prompt removal of combustible debris.
 - g) Provisions to check at the end of each day for fires or potential fires.
16. Safety Orientation and Training. The Contractor shall provide a description of its provisions to ensure that each employee has the experience, training, and required certification to work safely on the job, in accordance with paragraph F., Training Requirements hereunder, including:
 - a) Initial safety and health orientation for each employee, including employee rights and responsibilities, Contractor rights and responsibilities, use and maintenance of

required personal protective equipment, alcohol and drug abuse policy, first aid and medical facilities, general project hazards with policies and procedures addressing these hazards, hazard recognition and procedures for reporting or correcting unsafe conditions or practices, fire prevention and control, emergency response procedures, including local warning and evacuation systems, access to employee monitoring data and medical records, location and access to project safety and health plan, and University programs and procedures applicable to the project; and

- b) Availability of all records of required training to the Contract Administrator, project manager, and other personnel with oversight responsibilities.

E. Additional Safety Requirements. The following clauses shall be included in the Contract when the respective site hazards have been identified by LANL:

(X) Fall Protection Program. The Contractor shall comply with the OSHA Construction Fall Protection Regulation, 29 CFR 1926.501. (*See Appendix 3, Fall Protection Guide,*)

(X) Electrical Safety Program. The Contractor shall comply with the LANL Electrical Safety Program, (*See Appendix 4, Electrical Safety Program*)

F. Training Requirements. The Contractor shall be responsible for using qualified personnel and providing appropriate training to its personnel, in accordance with the following requirements:

1. In areas where applicable regulations require a designated “Competent Person” (e.g., scaffolding, excavations), the names of the designated individuals shall be posted at the construction site.
2. In cases where individuals require specialized training, the Contractor shall provide copies of training certificates and shall certify that the individuals are qualified to perform their jobs.
3. The Contractor shall train workers on the contents of the AHA, inform workers of site and task hazards and controls during a walkdown of the work-site, and conduct a pre-job safety briefing for all new work and, as needed, repetitive work.
4. The Contractor shall be responsible for maintaining trained crews on the construction site for the duration of the project. Training shall be scheduled as soon as practicable upon Notice of Award. The University will provide the following training of Contractor employees during the initial training period at no charge to the Contractor:

- a) General Employee Training (GET) - 8 hours.
 - d) Waste Documentation Forms - 2 hours
 - e) Lockout/Tagout(LO/TO) (if required by LANL program)
 - f) Site specific training – 2 hours
 - g) Site specific training for escorts – 2 hours.
5. The University will make reasonable efforts to provide additional training to Contractor employees after the initial training period on request. The Contractor will be responsible for all cost related to this additional training. Whether or not the University provides such additional training, the Contractor shall be responsible for providing trained employees at no additional cost to the University or delay in schedule.
6. All work classifications requiring certification or training must be maintained at the construction site to facilitate inspection by the University.
7. Before a LANL badge will be issued, all Contractor employees who will perform work on LANL premises for more than 10 workdays during a 12-month period or will require unescorted access to nuclear facilities or radiological controlled areas must successfully complete LANL's General Employee Training (GET) course, by passing the test after taking the class or studying the written materials. All such Contractor employees must also complete an annual GET update by reading ES&H training booklets provided for the purpose. Contractor employees with current GET badges from other DOE sites may obtain a LANL GET badge by reading LANL specific material.
8. Contractor employees who will require access to radiological or contamination areas must successfully complete the LANL's 16-hour Radiological Worker I or II Course, by passing the practical and written examinations after taking the class or studying the written materials. Retraining every two years is required. Contractor employees with current Radworker badges from other DOE sites may obtain LANL Radworker badges by presenting the DOE badge and reading LANL specific manual.
9. Training on Waste Documentation Forms is required for individuals who must execute Waste Profile Forms or Chemical Waste Disposal Forms.
- G. Contractor Inability to Mitigate a Known Hazard. If immediate corrective action is not possible or the responsibility falls outside the scope of the project, the Contractor must immediately do the following:
- 1. Notify the Contract Administrator of the location and describe the hazard;

2. Inform all affected employees of the danger and its location;
3. Post warning signs at the location of the hazard describing the nature of the hazard;
4. Take further interim control measures to protect employees;
5. Secure approval from the Contract Administrator of measures taken; and
6. Notify the Contract Administrator of any concerns that implementation of a change order or modification would conflict with a contract term, compromise the safety or health of an individual, or harm the environment.

H. Deliverables. The Contractor must submit the following to the Contract Administrator:

1. Within 24 hours after an injury or accident, the *Employers' First Report of Injury or Illness* (New Mexico Workers Compensation Administration Form 1A-1) if an injured employee loses work time or requires medical treatment beyond first aid.
2. Within 24 hours of any incident that results in Government, University, Contractor, or private property is lost or damaged as a result of this Contract, an *Individual Accident/Incident Report* (U.S. DOE form F5484.X).
3. Within 5 working days after the end of each month, a *Monthly Man-Hours Report* listing each craft or labor category separately. Use BUS-5-5 Form 2 for man-hour format.
4. Submit the OSHA Log 200 of injuries reported to OSHA 5 days after the end of the project.

I. Injury Reporting. A Contractor employee who is injured or becomes ill onsite during normal working hours should report to the LANL Occupational Medicine Facility for evaluation and possible treatment. The Contractor shall immediately report any injury to an employee onsite to the Contract Administrator by telephone, fax, email or directly. The Contractor shall report to the Contract Administrator any possible exposure to a chemical or air contaminant as a result of an unanticipated event (e.g., spill) or routing operations (e.g., lead or asbestos) and any sampling that indicates an OSHA or ACGIH action level, permissible exposure limit, ceiling, short-term exposure level, or biological testing (e.g., blood lead) has been exceeded.

J. Facility Specific Requirements. If additional controls, permits, or programs are required by the Facility Manager, they must be submitted by the Contractor and approved by the University.

- K. Access and Records for Verification. The Contractor shall provide access to the construction site and furnish all records and documentation necessary to enable the University to verify compliance with the University's safety and health requirements and the Contractor's Safety Program.

SP-5, Contractor's Superintendent

- A. In accordance with the General Provision entitled *Superintendence by the Contractor*, the Contractor shall, within ten days after Contract award, submit to the Contract Administrator for the University's approval, the name, résumé, and list of three references for the proposed superintendent. Within fourteen days of receipt of the information, the University shall approve or disapprove the superintendent in writing. If the superintendent is disapproved by the University, the Contractor shall submit the name, résumé, and list of references for an alternate superintendent within fourteen days after receipt of a notice that a previously proposed superintendent has been disapproved.
- B. The Contractor's Superintendent must be an employee of the Contractor with demonstrated expertise in construction management on projects of similar scope and complexity.

SP-6, Removal of Employee

The University, in its sole discretion, may temporarily or permanently bar from the Laboratory site any Contractor employee or subcontractor employee who does not work in a safe manner, as demonstrated either by repeated violations or single serious violation of applicable safety requirements. The Contractor will not be compensated for any costs resulting from the barring of an employee under this provision.

The Contractor shall be responsible for maintaining satisfactory standards of employee competency, conduct, integrity and compliance with the Contract requirements, including site specific requirements. Should the Contractor Administrator determine that an employee of the Contractor or one of its subcontractors at any tier fails to meet any of these standards, the Contractor shall immediately remove such person from the work site and that person shall not again, without written permission of the Contract Administrator, be allowed back on the work site.

The Contractor shall cause this requirement to be included in all subcontracts of every tier.

SP-7, Termination for Cause

In performing work pursuant to this Contract, the Contractor and its subcontractors shall comply with all health and safety requirements of the Laboratory and the standards of the Occupational Safety and Health Administration (OSHA) referenced in this Contract. Any failure of the Contractor, its employees, its subcontractors, or their employees to comply with such requirements and standards that results in a serious injury or fatality or reflects a persistent disregard for health and safety shall be cause for the University at its sole discretion, to require corrective action, to suspend work under this Contract until corrective action has been completed, or to terminate this Contract for default.

If the University suspends work pursuant to this clause, the Contractor shall not be entitled to an extension of time, compensation, or damages with respect to, or resulting from, the suspension. The General Provision entitled *Default* shall apply to any termination pursuant to this clause. A termination pursuant to this clause shall be considered in determining whether the Contractor or any subcontractor whose acts or omissions were the basis for the termination is a responsible bidder for any subsequent contract with the University.

SP-8, Contractor Performance Evaluation

The Contractor will be evaluated by the University periodically during the performance of the Contract in the areas of General Performance, Schedule Performance, and Safety Performance. A preliminary Contractor Performance Report will be prepared and the Contractor will be provided an opportunity to comment on its content. The Contractor's comments must be provided to the Contract Administrator within 15 working days from the date of transmittal of the preliminary report to the Contractor. Upon receipt of any comments from the Contractor or the passage of 15 working days without comments having been received, the University shall prepare a final report of the periodic evaluation.

At the completion of the contract, the University shall prepare a final Contractor Performance Report based upon the compilation of the periodic reports. The Contractor will be provided an opportunity to comment on its content. The Contractor's comments must be provided to the Contract Administrator within 15 working days from the date of transmittal of the preliminary report to the Contractor. Upon receipt of any comments from the Contractor or the passage of 15 working days without comments having been received, the University shall prepare the final Contractor Performance Report.

The University intends, at sometime in the future, to include Contractor Performance Reports as a factor in the determination of responsible bidder for new contract awards.

SP-9, Reserved

SP-10, Reserved

SP-11, State Lien Statutes

State lien statutes are not applicable to construction Contracts for Federal Facilities; therefore, Preliminary Notices to the University will not be acknowledged. The Miller Act (40 USC 270a-270d) may provide a remedy for unpaid persons or firms furnishing labor and/or materials in the prosecution of the work provided under this Contract.

SP-12, Liquidated Damages

Liquidate Damages: If the Contractor fails to complete the work within the time specified in this Contract, including any extension thereof, the Contractor agrees to pay, and authorizes the University to withhold from any money due to the Contractor as fixed and agreed liquidated damages the sum of One Thousand One Hundred Twenty and No/100 Dollars (\$1,120.00) for each calendar day of delay in completion of the contract performance periods set forth in Article SP-3, E and F. Liquidated Damages will be assessed until the Laboratory determines that the Contract is substantially complete with respect to those milestones. Substantial completion is defined as “when the work or designated portion thereof is sufficiently complete, in accordance with the Contract documents, so the University may occupy the work or designated portion thereof for the use for which it is intended.”

Performance Incentives: If the Contractor achieves substantial completion earlier than the contract performance periods set forth in Article SP-3, E and F, the Contractor shall be paid an additional Five Hundred and No/100 Dollars (\$500.00) per day of early completion as a performance incentive, but such incentive shall in no case exceed \$5,000.00 (or ten days of early completion).

SP-13, Temporary Field Office

The Contractor is required to furnish and maintain a field office during the performance of this Contract. Such an office shall be equipped and staffed to conduct the work under this Contract. It shall be established by the Contractor at a location in the vicinity of the worksite and approved by the Contract Administrator. A copy of all safety plans and documents, Drawings, Specifications, approved submittals, and other information pertinent to the prosecution of this Contract work shall be kept by the Contractor at this office. Authorized representatives of the University shall have access to the office and telephone usage at all reasonable times.

SP-14, Security Procedures

- A. The work under this Contract will be performed in the area or areas listed below.

SECURITY AREA

TA-03-1498 and 132

CLEARANCE DESIGNATION

Q Clearance Required (Escorts may be authorized at a 5 to 1 ratio)

- B. The following procedures apply to work in all areas at Los Alamos National Laboratory (LANL):

1. Government policy requires that only United States citizens may be employed, be assigned to perform work, visit or otherwise enter the LANL. The Contractor shall take effective measures to determine the citizenship of each person entering the LANL, and shall not permit non-citizens to enter such sites. If the Contractor intends to employ non-U.S. citizens, a special permit may be granted by the University. The application for an exception shall be obtained from and submitted to the Contract Administrator. Approval must be granted by the Laboratory before access will be allowed onto Laboratory property. There is no assurance that the University will grant any particular requested exception. If the Contractor permits non-U.S. citizens to enter the site without special permission, the Contractor will receive notification of a security infraction. Such an infraction may be considered in future determinations of a Contractor's responsibility.
2. The Contractor shall provide upon request from the Contract Administrator the name of any Contractor or subcontractor employee together with the employee's address and citizenship.
3. The Contractor shall furnish in writing to the Contract Administrator information regarding any deviation from the normal LANL work hours (8:00 a.m. - 5:00 p.m., Monday - Friday), or work week and holidays.
4. Any digging of holes under security fencing, cutting or removing of security fencing, altering of gates or otherwise providing access into security areas by means other than established access points shall be accomplished only in the presence of a Protective Force Security Inspector and only after obtaining approval from the Contract Administrator 48 hours in advance. At the end of each work day, the Contractor shall repair, replace, or provide adequate barriers to preclude unauthorized entry into Security Areas through the holes dug or cuts or through modified gates or other alteration of the security perimeters. Such barriers shall be inspected and approved by

University security representatives. During the workday, a Protective Force Security Inspector shall guard the temporary opening.

5. All persons, vehicles, parcels, etc., are subject to search when entering or leaving any posted Government property.

C. In areas requiring a “Q” clearance, the following security procedures apply:

1. Prior to commencing work under this Contract, the Contractor shall meet with the University security representatives to review security measures that apply to this Contract.
2. All employees engaged in work at the site must be U.S. citizens and must possess DOE “Q” access authorizations or have been issued an “Escort Required” badge and be escorted at all times while within the area by a person possessing a DOE “Q” access authorization. The Contractor shall be responsible for providing such escorts.
3. On Contracts with a performance period (*see* Special Provision entitled *Commencement, Prosecution, and Completion of Work*) longer than one year the University may, at its sole option, process security access authorization requests for the Contractor’s employees. Such access authorization requests are requested by the University, and authorized or denied by the Government at its sole discretion. The University does not promise or warrant that an access authorization request for any employee will be granted. In recent periods, the Government has taken one to two years to grant or deny each “Q” security access authorization request. For each employee to be processed for access authorization, the Contractor shall submit the following information a minimum of 360 days in advance of need of entry into a Security Area:
 - a) Six completed copies of *Personnel Security Questionnaire* (Form DOE-1), Parts I and II.
 - b) One *Security Acknowledgment* (DOE F-5631.18).
 - c) Three Fingerprint Cards (FD-258).
 - d) If the employee is a military veteran, one copy of *Separation from Military Service* (DD Form 214) or other acceptable evidence of military service.
 - e) Original and one copy of *Authority for Release of Information* (DOE F-5637.1).

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4. If a clearance is granted, each cleared employee shall attend an indoctrination security lecture prior to receiving a security badge. Upon termination of the employee or expiration of this Contract, the Contractor shall ensure that each cleared employee completes a *Security Termination Statement* (Form DOE-136) and attends a security termination lecture. Arrangements for the two required lectures shall be made through the Contract Administrator.
5. After the indoctrination lecture provided by University personnel each cleared employee shall report to the LANL Badge Office, Building SM-490, TA-3, for photograph and issuance of badge. Badges will be valid for the duration of the Contract period only. All badges will remain the property of the DOE, and the Contractor shall be responsible for ensuring that the badges are returned upon the termination of the employee or expiration of the Contract.
6. All personnel shall display security badges on their outer clothing above the waistline while in Security Areas and shall remain within their assigned work areas.
7. Vehicles driven by uncleared drivers delivering construction materials from the Contractor, subcontractors, vendors, and suppliers will be permitted to enter Security Areas provided they have been issued an "Escort Required" badge and are under escort of personnel possessing "Q" access authorizations. In order to obtain "Escort Required" badges for uncleared persons making deliveries inside a "Q" cleared area, the Contractor shall submit to the Contract Administrator the information needed to complete an *Official Laboratory Visitor Request* form (Form 864). The information needed is as follows:
 1. Full name as it appears on a picture I.D.
 2. Correct name of company
 3. Completed citizenship verification form

This form must be approved by the University's Security Office before it becomes effective. The Contractor shall make arrangements through the Contract Administrator 48 hours in advance of the need for these visits. The Contractor shall specify the number of badges needed and when it would like to secure such badges. Badges will be issued to the Contractor at the University Security Office. Upon completion of the work, the Contractor shall return the badges to the Contract Administrator.

SP-15, Reserved

SP-16, Vehicular Access and Closing of Streets

- A. When operations in connection with project work necessitate the closing of streets, removal of traffic signs or interference with normal traffic the Contractor shall arrange such in advance with the Contract Administrator and, when appropriate, the Los Alamos County Police Department. In addition, the Contractor shall provide and maintain appropriate barricades, signs, markers, flares or other devices as may be required by the Police Department for traffic guidance and public safety. Barricades, traffic control devices and signs so provided shall meet the requirements set forth in the "Manual on Uniform Traffic Control Devices" (U.S. Department of Transportation, 1978).
- B. The Contractor shall maintain a minimum of one open traffic lane at all times during construction.
- C. The Contractor, upon completion of its work or when directed by the Contract Administrator, shall immediately replace (or relocate and install, as directed) all presently existing safety, security, utility and similar markers and signs affected by the construction. All damaged signs will be replaced by the University at the Contractor's expense.

SP-17, Reserved

SP-18, Modification Proposals - Price Breakdown

In connection with any proposal it makes for a Contract modification, the Contractor shall furnish a price breakdown itemized as required by the Contract Administrator. Unless otherwise directed, the breakdown shall be in sufficient detail to permit an analysis of all material, labor, equipment, Contract and overhead costs, as well as profit, and shall cover all work involved in the modification, whether such work was deleted, added or changed. Any amount for subcontracts shall be supported by a similar price breakdown. In addition, if the proposal includes a time extension, a justification shall be furnished. The proposal, together with the price breakdown and time extension justification, shall be furnished by such date as may be specified by the Contract Administrator. Finally, the proposal shall include costs and time, if any, arising from the necessary, reasonable, and foreseeable effect the modification has on unchanged work. If the aggregate cost and time effect are not proposed by the Contractor, they will be understood to be zero (0) or unchanged.

SP-19, University Field Personnel and Inspection

The work is subject to the general oversight of the Contract Administrator and is subject to inspection by his or her duly appointed inspectors to insure strict compliance with the terms of this Contract. No inspector is authorized to change any provision of the Drawings and Specifications, nor shall the presence or absence of any inspector relieve the Contractor from any requirements of this Contract. The designated Construction Inspector has the authority to inspect the work for quality and compliance with the Drawings and Specifications; establish lines, grades and controls for the work; and to recommend changes to the Contract Administrator pursuant to the General Provision entitled *Changes*. No interpretation of this Contract or direction shall be binding upon the University unless it is in writing and signed by the Contract Administrator.

SP-20, Construction Contract Special Tax Provision

- A. The New Mexico Gross Receipt Tax imposed upon and measured by the money received by the Contractor for performance of this Contract is a tax included in the Contract price under paragraph (b) of the General Provision entitled *Federal, State and Local Taxes*. The Contractor shall include allowance for any increase or decrease in the tax rate and shall not make claim against the University for any increase or decrease during the Contract period.
- B. Notwithstanding paragraph (b) of the General Provision entitled *Federal, State and Local Taxes*, the Contract price does not include any New Mexico Gross Receipts Tax levied upon or measured by property or services, or the value thereof, furnished by the University, under this Contract. The Contractor agrees to notify the Contract Administrator promptly of the imposition on the Contractor by the New Mexico Taxation and Revenue Department of any tax described in the preceding sentence and to refrain from paying such tax unless authorized in writing by the Contract Administrator.
- C. The Contractor agrees to take any and all action directed by the Contract Administrator to resist the imposition of taxes described in paragraph B. of this provision, including, but not limited to, the institution in the Contractor's name of appropriate administrative or judicial proceedings prescribed by the New Mexico Tax Administration Act.
- D. Provided the Contractor complies with all provisions of paragraphs B. and C. above and with the instructions of the Contract Administrator issued thereunder, the Contractor shall, in addition to the Contract price, be reimbursed for the payment of taxes described in paragraph B. plus all reasonable costs incurred by the Contractor as a result of compliance with such provisions and instructions, including but not limited to, penalties, interest, attorney's fees and other costs of legal proceedings.

SP-21, Use of Explosives

The use of explosives is not permitted, unless conditions for their use and the Contractor's liability therefore are expressly stated in the Specifications or unless such use is authorized in writing by the Contract Administrator with express conditions concerning use and liability.

SP-22, Work Forces - Work Periods

- A. The Contractor shall furnish sufficient forces, construction plant, and equipment, and shall work such hours, including night shifts, overtime operations, Sunday and holiday work as may be necessary, to insure the prosecution of the work in accordance with the approved progress schedule. Before commencing work, the Contractor shall furnish a program of shifts, hours, and days per week to be worked and the approximate number of persons per shift. The Contractor shall notify the Contract Administrator 48 hours in advance of any change to the program.
- B. If in the opinion of the Contract Administrator, the Contractor falls behind the progress schedule, the Contractor shall take such steps as may be necessary to improve its progress. The Contract Administrator may direct the Contractor to conduct overtime operations and to increase the number of employees or shifts or both, days of work, or the amount of construction plant, or all of them, and to submit for approval such supplementary schedules or schedules in chart form as may be deemed necessary to demonstrate the manner in which the agreed rate of progress will be regained.
- C. Failure of the Contractor to comply with the requirements of this provision shall be grounds for determination by the Contract Administrator that the Contractor is not prosecuting the work with such diligence as will insure completion of the Contract within the time specified. (See General Provision entitled *Default - Fixed-Price Construction*.)

SP-23C, Contract Schedules

- A. Description
 - 1. The Contractor shall develop a network plan and schedule for the project demonstrating complete fulfillment of all Contract requirements, shall keep the network plans up to date in accordance with the requirements of this section and shall utilize the Critical Path Method (CPM) in planning, coordinating, performing and reporting the work under this Contract, including all activities of subcontractors, equipment vendors, and suppliers, and in assisting the University Contract Administrator and Contract Administrator's Engineering Representative in monitoring the progress of the work.

3. The principles and definition of CPM in terms used herein shall be as follows:

CPM network: a graphic description of the construction plan, showing the sequential steps needed to reach the completion of the work. It shall depict events and jobs, and their interrelationships, and shall recognize the progress that must be made in one task before subsequent tasks can begin. It shall be comprehensive and shall include all interdependencies and interactions required to perform the work of the Project.

B. Submittals

1. Within ten calendar days of the Notice to Award, submit a Preliminary Contract Schedule.
3. Within one (1) week the Notice to Proceed, submit a Detailed Contract Schedule for University approval.
4. Before final acceptance, submit a final As-Built Schedule.
5. Submit all other required reports referenced herein when required by this Provision.
6. Submit one (1) reproducible print of each required schedule and report, including required revisions thereof. The Contractor may also be required to submit a copy of the computer data disks used to produce hard copy submittals. Computer disks shall be 3½-inch high density in MS-DOS readable format.
7. Submit the monthly updated Contract Schedules (hereinafter "Baseline Schedules") and reports referenced herein concurrently in a single package.

C. Breakdown of Bid. Within ten (10) calendar days after receipt of Notice of Award and prior to payment of any invoices by the University, the Contractor shall submit a bid breakdown (in the form, detail and number prescribed by the Contract Administrator), totaling the Contract price, to the Contract Administrator for approval.

1. The breakdown shall correspond to the items indicated in the baseline schedule showing separate amounts to complete the work.
2. Mobilization, preparatory work, overhead and profit shall be included in each of the several items to which they are applicable and will not be stated as separate items. The cost of bonds, however, should be stated in a separate line item.

3. The Contract Administrator shall have the right to revise the schedule of values submitted, prior to his/her approval, if, in his/her opinion the items indicated do not conform to their true value. The breakdown shall be revised at the same time revisions become necessary in the progress schedule.

D. Subcontracts

1. The Contractor shall submit the names of all subcontracts involving on-site labor, together with a summary of the extent, character, and dollar amount of the work to be done by each subcontractor. Upon request, the Contractor shall also furnish the Contract Administrator with copies of all subcontracts for performance of the work under this Contract.
2. Immediately after issuance of the Notice to Proceed, and any time thereafter the Contract Administrator may request submittal of purchase orders or subcontracts for materials or equipment (including those issued by subcontractors) with priority ratings extended when applicable. The submittal to the Contract Administrator shall be made immediately after the Contractor has received confirmation of the various items. The promised date(s) of shipment, point(s) of delivery, quantity and name of items to be furnished and unit prices will be clearly indicated. The date each purchase order or subcontract is placed will be furnished to the Contract Administrator.

E. Changes Affecting Delivery

The Contractor shall notify the Contract Administrator immediately of any changes or circumstances which would affect timely delivery of any item.

F. Basis For Payment

1. Progress payments shall be computed on a basis of the percentage of completion of the work in place, multiplied by the lump-sum Contract price, the percentage of completion representing the ratio of the value of that portion of the work completed to the total price, as determined by the application of prices shown in the approved schedule of values.
2. No payment(s) will be made to the Contractor until a schedule of values and progress schedule revised to reflect all changes in Contract work have been submitted to and approved by the Contract Administrator.

G. Approvals

1. Acceptance of the Detailed Contract Schedule will be a condition precedent to the making of any progress payment for work performed beyond sixty (60) days from receipt of the Notice to Proceed.
2. Monthly updating including all particulars, including labor, resources and cost loading of the Baseline Schedule and reports shall be an integral part, and basic element of the estimate upon which progress payments will be made. Submittal, review and approval by the Contract Administrator of these items shall be a condition precedent to the making of progress payments. If, in the judgment of the Contract Administrator, the Contractor fails or refuses to provide a complete updated Baseline Schedule or reports, as specified, the Contractor will be deemed to have not provided the required estimate upon which progress payments may be made, and shall not be entitled to such progress payments unless or until it has furnished the aforesaid schedules.

H. Construction Analysis

The Contractor shall use a computerized critical path scheduling system capable of producing computer generated reports with the following minimum information:

1. Activity identification code keyed to Summary and Detailed Contract Schedule activities;
2. Activity description;
3. Status date and remaining duration;
4. Activity percentage complete;
5. Activity original duration;
6. Early start/finish and late start/finish;
7. Total float;
8. Free float;
9. The predecessor and successor activities for each individual activity;
10. A comparison between the current update and the baseline schedule;

I. Contract Deliverables

1. Detailed Contract Schedule
 - a) Submission

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- (1) Within five (5) calendar days of Notice to Proceed, submit a detailed Contract Schedule.
- (2) Any revisions deemed necessary by the Contract Administrator as a result of its review shall be re-submitted to the Contract Administrator for review within four (4) days after the Contractor's receipt of the detailed Contract Schedule from the Contract Administrator.
- (3) Two (2) week Look-Ahead Schedule shall be submitted at weekly construction meeting for review by LANL Technical Rep.

b) Form

- (1) Prepare the detailed Contract Schedule as a time-scaled bar chart showing continuous flow from left to right. Durations and specific calendar dates shall be clearly and legibly shown for the start and finish of each work activity.
- (2) Prepare the detailed Contract Schedule in sufficient detail to demonstrate planning for the work and to represent a practical plan to complete the work within the Contract time.

c) The detailed Contract Schedule shall include, but not be limited to

- (1) A legend of scheduled activities.
- (2) Major milestones, which are critical to the completion of the work, including but not limited to the following:

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- (a) Equipment Delivery
 - (i.) *Pump PS-1*
 - (ii.) *Pump PCW-6*
 - (iii.) *Davit Crane*
 - (iv.) *Air Separator*
 - (v.) *Expansion Tank*
 - (vi.) *Air Vent*
 - (vii.) *Pump Replacement Elements*
 - (viii.) *Adjustable Speed Drives*
 - (ix.) *Motors*
- (b) Inspections/Testing
 - (i.) *Load Test Davit Crane*
 - (ii.) *Cooling Tower 1837 Cleanliness Inspection*
 - (iii.) *Flood Test Cooling Tower 1837Basin*

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- (iv.) *Piping pressure tests*
- (v.) *Final Inspection*
- (c) **Punch list**
 - (i.) *Punch List to Contractor for LDCC Cooling Tower Improvements Phase*
 - (ii.) *Punch List to Contractor for CCF/LDCC Cooling Plant Modifications Phase*
 - (iii.) *Punch List Corrections and Notifications*
 - (iv.) *Punch List Verifications by LANL*
- (d) **Key Coordination Milestones**
 - (i.) *Utility outages on 3-1498-MCC-A, 3-1498-PP-1, 3-132-MCC-1, 3-132-MCC-G, 3-132-MCC-E, 3-132-MCC-F, 3-132-SUS-H and 3-132-SUS-C*
 - (ii.) *Hot Tap CWS Piping in Bldg. 1498, Mechanical Room #189R*
 - (iii.) *Cover Elec. Equipment in Mechanical Room #160R for removal of piping*
 - (iv.) *Shut down Chiller CWR-173 & Pumps PCW-173 & 174*
 - (v.) *Shut down Chiller CWR-175 & Pumps PCW-175 & 176*
 - (vi.) *Shut down Chiller CWR-161 & Pumps PCW-161 & 162*
 - (vii.) *Shut down HAV-13 and Associated Fan Coil Units*
 - (viii.) *Start Demo Cooling Tower 1837*
 - (ix.) *Start-up PS-1*
 - (x.) *Start-up PCW-6*
 - (xi.) *Start-up PCW-173 and PCW-174*
 - (xii.) *Start-up PCW-175 and PCW-176*
 - (xiii.) *LANL Operators Training*

d) A plot of the Detail Contract Schedule with a clearly highlighted critical path.

e) Identification of all holidays and non-working days.

2. Detailed Contract Schedule

- a) The Contractor shall submit to the Contract Administrator for review and approval a Detailed Contract Schedule no later than five (5) calendar days after Notice to Proceed, but in such time to allow for review and approval in the ten (10) days after Notice to Proceed. The Detailed Contract Schedule shall be a computerized detailed task level CPM diagram in a time-scaled Activity-on-arrow Diagramming Method (ADM), or a Precedence Diagramming Method (PDM) format. A clear

delineation of construction activities shall be shown on the Detailed Contract Schedule.

- (1) The Contractor shall participate in a review of the proposed Detailed Contract Schedule by the Contract Administrator when requested to do so. Any revisions deemed necessary by the Contract Administrator as a result of this joint review shall be re-submitted within four (4) days after said meeting.
- b) The work activities comprising the Detailed Contract Schedule shall be of sufficient detail to ensure adequate planning and execution of the work and such that the schedules provide an appropriate basis for monitoring and evaluating the progress of the work. A work activity is defined as an activity, which requires time and resources (labor, equipment, and/or material) to complete in a continuous operation. No activity shall be less than one (1) nor more than fourteen (14) workdays in duration for any on-site operation. All holidays and non-working days shall also be identified.
- d) Failure by the Contractor to include any element of the work required for the performance of this Contract and completion of the Project shall not excuse the Contractor from completing all work required within the time for completion, notwithstanding Contract Administrator acceptance of the Detailed Contract Schedule.
- e) No more than 55% of the total number of activities shown on the schedule shall be critical or near critical. Near critical is defined as float less than ten (10) days.
- f) These schedules shall indicate the sequence and interdependency of work activities. They shall include, but not be limited to, the following items; contractor must split items were required to developed schedule sequence:

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(1) Demolition

- (i.) *Demo Concrete @ Cooling Tower 1837*
- (ii.) *Remove Chilled Water Expansion Tanks TX-735, TX-1 and TX-7*
- (iii.) *Remove Chillers CWR-173, CWR-175, CWR-161, CWR-101 and CWR-6*
- (iv.) *Remove Chiller Water Purge Condensing Units at CWR-173, CWR-175, and CWR-161*
- (v.) *Remove Chilled Water Pumps PCW-101, PCW-161, and PCW-162*
- (vi.) *Demo and Reconfigure Piping in Mechanical Room #189*
- (vii.) *Demo and Reconfigure Piping at Corridor #270*
- (viii.) *Demo and Reconfigure Piping at CWR-173*

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- (ix.) *Demo and Reconfigure Piping at CWR-175*
- (x.) *Demo and Reconfigure Piping at CWR-161*
- (xi.) *Recover Refrigerant from Chillers CWR-161, CWR-173 and CWR-175*
- (xii.) *Demo Concrete Chiller and Pump Pads*
- (2) **Rough-Outs**
 - (i.) *Electrical*
 - (ii.) *Mechanical*
- (3) **Fabrication**
 - (i.) *Reinforcing Steel*
 - (ii.) *Structural Steel Framing*
 - (iii.) *Pipe Supports and Equipment Stands*
- (4) **Set Equipment**
 - (i.) *Davit Crane*
 - (ii.) *Pump PS-1*
 - (iv.) *Pump PCW-6*
 - (v.) *Motor PCW-173, PCW-174, PCW-175, and PCW-176*
 - (vi.) *Air Separator & Expansion Tank in Mechanical Room #189*
- (5) **Trimming**
 - (i.) *Mechanical for Pump PS-1*
 - (ii.) *Electrical for Pump PS-1*
 - (iii.) *Electrical for Davit Crane*
 - (iv.) *Electrical for PCW-173, PCW-174, PCW-175, and PCW-176*
 - (v.) *Mechanical Specialty*
 - (vi.) *Chemically Clean Tower Water Piping*
 - (vii.) *Rebuild Pumps PCW-173, PCW-174, PCW-175, and PCW-176*
 - (viii.) *Insulate and Heat Trace Piping*
- (6) **Controls**
 - (i.) *Trane Chiller Control Modifications*
 - (ii.) *New PCM*
 - (iii.) *Exterior Structural*
 - (iv.) *Structural Steel Framing*
 - (v.) *Steel Grating*
 - (vi.) *Concert forming*
 - (vii.) *Reinforcing Steel*
 - (viii.) *Place Concrete*
 - (ix.) *Davit Crane Hatch*

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- (x.) *Repair Cooling Tower 1837 Basin*
- (xi.) *Handrails*
- (xii.) *Interior Finishes*
- (xiii.) *Patch and paint walls and floor at Mechanical Room
#170R*
- (xiv.) *Patch and paint walls and floor at Mechanical Room
#160R*

The above schedule components shall be organized into logical groupings by location, and responsibility, etc.

- g) A combined two (2) week Look-Ahead Schedule with a two (2) week As-Built Schedule for previous two weeks (derived from the Baseline Schedule) shall be submitted by the Contractor to the Contract Administrator for review and approval at each weekly progress meeting.
- h) Critical Work activities are defined as work activities, which if delayed or extended, will delay the scheduled completion of the work, or both. All other work activities are defined as non-critical work activities and are considered to have float.
- i) Float is defined as the time that a non-critical work activity can be delayed or extended without delaying the scheduled completion of milestones specified in this provision or the scheduled completion of the work, or both. Float or slack time is not for the exclusive use or benefit of either the University or the Contractor. Neither the Contractor nor the University shall have an exclusive right to the use of float. Document the effect on the updated Contract Schedule whenever float has been used.
- j) The Contractor shall not sequester float through strategies including extending activity duration estimates to consume available float, using preferential logic, using extensive or insufficient crew/resource loading, use of float suppression techniques, special lead/lag logic restraints or imposed dates. Use of float time disclosed or implied by the use of alternate float suppression techniques shall be shared, and be to the benefit of both the University and the Contractor.
- k) It is acknowledged that University caused time savings (i.e., critical path submittal reviews returned in less time than allowed by the Contract documents, approval of substitution requests which result in a savings of time or the Contractor, etc.) create shared float.

- l) A schedule showing the work completed in less than the Contract time, which is found to be practical by the Contract Administrator, shall be acceptable only if the Contractor and the University execute a binding Contract modification revising the Contract completion date to that shown on the proposed schedule. A schedule extending beyond the Contract time will not be acceptable.
- m) Once approved by the Contract Administrator, the Contractor's Detailed Contract Schedule shall be known as the Baseline Schedule and shall be used by the Contractor for executing the work of the Contract including planning, organizing and directing the work, and reporting its progress until subsequently revised.

3. Baseline Schedule Updating and Progress Payments

- a) The Baseline Schedule, shall be updated in all particulars, including cost loading on a monthly basis (or at lesser intervals if deemed necessary by the Contract Administrator without additional cost to the University for reasons such as work activities being fourteen (14) days or more behind schedule) for the purpose of recording and monitoring the progress of the work. The Contractor shall meet with the Contract Administrator each month to review actual progress made to date, activities started and completed to date, and the percentage of work completed to date on each activity started but not completed. Upon completion of the joint review, the Contractor shall prepare the updated Baseline Schedule and submit it to the Contract Administrator.
- b) The updated Baseline Schedule shall incorporate all changes mutually agreed upon by the Contractor and University during preceding periodic reviews and all changes resulting from approved Change Orders and Contract Modifications.
- c) Acceptance of the Updated Baseline Schedule will be a condition precedent to the making of any progress payments for work performed.

4. Reports

- a) Variance: A variance Report shall be submitted monthly comparing the approved Baseline and the Updated Schedules.
 - (1) The Report shall include a description of all activities completed during the preceding month, a description of progress made and planned for activities listed as started but not completed on the updated Contract Baseline Schedule, and shall report non-critical activities which have been delayed five (5) or more working days and critical (two (2) days or less total float)

activities which have incurred any delay. The format of this Report shall include:

- (a) Activity code and description;
- (b) Baseline scheduled early start/finish dates;
- (c) Current anticipated early start/finish dates;
- (d) Working days remaining to complete the activity;
- (e) Percentage complete of the activity;
- (f) Total float of the activity; and
- (g) Corrective Action Plan to complete work within the Contract time period, if requested by Contract Administrator.

b) Submittal Schedule

- (1) The Contractor, within ten (10) calendar days after Notice to Proceed, shall prepare and submit to the Contract Administrator in Microsoft Excel or Microsoft Word format a comprehensive Submittal Schedule prepared, which will maintain the Detailed Contract Schedule. The Contractor shall identify on the Submittal Schedule all of the submittal items required by the Contract documents governing the work, listing Shop Drawings and product data or literature separately. The Contractor shall indicate for each submittal item on the Submittal Schedule.
 - (a) The date by which that item will be submitted to the Engineering Representative.
 - (b) Whether the submittal is for review, substitution, or for record only.
 - (c) The date by which response by the University is required.
 - (d) The date by which the material or equipment must be on the site in order not to delay the progress of the work.
- (2) In preparing the Submittal Schedule, the Contractor shall consider the nature and complexity of each submittal item and shall allow ample time for review, revision or correction.
- (3) The Submittal Schedule shall be updated monthly showing actual submittal status at the time of reporting period and forecasted submittal requirements necessary to achieve the Contract Baseline Schedule.
- (4) The Contract Administrator will review the Contractor's updated Submittal Schedule to determine its completeness and compatibility with the Baseline Schedule. A Submittal Schedule which is incompatible with the Detailed

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Contract or Baseline Schedule or which creates an unreasonable labor demand on the University for review of said submittals will be sufficient reason(s) to reject the Submittal Schedule. Rejected Submittal Schedules will be resubmitted within two (2) calendar days of notice of rejection.

- g) Submittal of the monthly reports and Schedule Updates by the Contractor are required regardless of the approval status of the Contract Baseline Schedule.

J. Responsibility For Completion

The Contractor agrees that at the sole judgment of the Contract Administrator, whenever it becomes apparent from the current monthly updated Contract Baseline Schedule that the Contract completion date will not be met, it will take some or all of the following actions, as approved by the Contract Administrator, at no additional cost to the University:

1. Increase construction labor in such quantities and crafts as will substantially eliminate, in the judgment of the Contract Administrator, the backlog of work.
2. Increase the number of working hours per shift, shifts per working day, working days per week, or the amount of construction equipment, or any combination of the foregoing, sufficiently to substantially eliminate, in the judgment of the Contract Administrator, the backlog of work. This paragraph shall not be construed to permit Contractor to violate the work hour restrictions specified in the Contract document.
3. Reschedule activities to achieve maximum practical concurrence of accomplishment of activities.

K. Adjustment of Times for Completion

1. In addition to the General Provisions, the time for completion of the work will be adjusted in accordance with these procedures.
2. Any request for an adjustment of the Contract Time for completion submitted by the Contractor for changes or alleged delays shall be accompanied by a complete Time Impact Analysis, which shall be submitted for review within twenty (20) days after the request by the Contractor. Time extensions will not be granted unless substantiated by the CPM Schedule, and then not until the CPM project contingency becomes zero.
3. Each Time Impact Analysis shall provide information justifying the request and stating the extent of the adjustment requested for each specific change or alleged delay. Each

Time Impact Analysis shall be in form and content acceptable to the Contract Administrator, and shall include, but not be limited to, the following:

- a) A fragmentary CPM type network (Fragnet) illustrating how the Contractor proposes to incorporate the change or alleged delay into the current updated Baseline Schedule; and
 - b) Identification of activities in the current updated Baseline Schedule which are proposed to be amended due to the change or alleged delay, together with engineering estimates and other appropriate data justifying the proposal.
- 4. The Time Impact Analysis shall be determined on the basis of the date or dates when the change or changes were issued, or the date or dates when the alleged delay or delays began. The status of the construction project and Time Impact Analysis shall include event time computations for all affected activities.
 - 5. The Contract Administrator may require that Time Impact Analysis be provided in order to demonstrate the time impact upon the overall project and the time for completion, at no additional cost to the University.
 - 6. If the Contract Administrator finds after review of the Time Impact Analysis that the Contractor is entitled to any extension of time for completion, the Contract Administrator will adjust the time for completion accordingly, and the Contractor shall then revise the Baseline Schedule accordingly.
 - 7. The accepted updated Baseline Schedule will be used in the calculation of liquidated damages or Compensable Delay for each day of delay after the Contract completion date, as adjusted, until the work is accepted.

L. Final As-Built Schedule

As a condition precedent to final acceptance of the Project, submit a final As-Built Construction Schedule and all final reports, which accurately reflect the manner in which the Project was constructed and include actual start and completion dates for all work activities on the Baseline Schedule.

SP-24, Payment Due Dates, Inspection Period, and Invoices

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- A. The University will make all efforts to make payments within thirty (30) calendar days after the date of actual receipt to the University designated office of a proper invoice or other required information.
- B. The University agrees to inspect and determine the acceptability of the Contract work within fifteen (15) calendar days after the date of completion of the work.
- C. The Contractor shall submit one (1) original of all invoices to:

University of California
Los Alamos National Laboratory
Financial Management Operations, Mail Stop P240
P. O. Box 1663
Los Alamos, NM 87545

SP-25, Stockpile and Work Areas

(See General Provision entitled *Operations and Storage Areas*.)

- A. Warehouse, shop and office facilities and stockpile areas shall be provided by the Contractor at its own expense. The University may make available Government premises for use by the Contractor without cost whenever such use will not interfere with other operations. The following provisions will govern the Contractor's use of such premises:
 - 1. All operations of the Contractor, including storage of construction materials and equipment, on Government property shall be limited to those purposes and confined to those areas authorized and approved by the Contract Administrator or other provisions of this Contract.
 - 2. Only construction materials and equipment to be used for the performance of this Contract work may be stored in the designated areas. If the Contractor abandons the performance of this Contract work or if the Contractor's right to proceed is terminated pursuant to the General Provision entitled *Default-Fixed-Price Construction* the Contractor shall hold and save the University and its employees, officers and agents free and harmless from any liability of any kind arising from the University's taking possession of such construction materials and equipment for completion of this Contractor work.
 - 3. Except as otherwise provided in this Contract or by direction of the Contract Administrator, the Contractor may erect structures, install utilities, and establish storage areas as may be necessary to prosecute the Contract work in locations designated for those purposes. All such structures and facilities shall remain the property of the

Contractor and, unless otherwise authorized by the Contract Administrator, shall be removed from the premises at the Contractor's expense upon completion of the work or when directed by the Contract Administrator. In either case, the Contractor shall have removed all such structures and facilities and vacated the premises, leaving the premises in a condition satisfactory to the Contract Administrator prior to final acceptance of the Contract work.

4. The Contractor shall be responsible for preparing the site for use, arranging for trash or garbage collection and providing utilities or services which may be necessary in connection with the Contractor's use of the premises. The Contractor shall maintain the premises, all facilities and structures on the premises, whether or not constructed by the Contractor, and all areas identified for access to the premises in a safe, sanitary and attractive condition. The Contractor shall not make or allow any abuse or destruction of the premises including the disturbance or destruction of trees. The Contractor shall not permit any person, whether or not in the Contractor's or its subcontractors' employ, to be housed on the premises.
- B. The Contractor shall provide and maintain during the entire period covered by this Contract a weather-tight bulletin board approximately 3' high by 5' long. It shall be mounted in a conspicuous place, as approved by the Contract Administrator, accessible to all employees of the Contractor and subcontractors. The bulletin board will remain the property of the Contractor. All University posters or notices, the Contract Davis-Bacon wage rate decision, Contractor safety programs, and any publications of interest to workers shall be displayed.

SP-26, Utilities

- A. For utilities to be used by the Contractor in performance of the construction work:

1. Supplying of Water, Gas and Electricity

The following utilities and connect/disconnect services shall be furnished by the University to the Contractor without charge:

Water (only to the degree which does not interfere with existing services to LDCC or CCF operations).

Electricity (only to the degree which does not interfere with existing services to LDCC or CCF operations).

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- a) Approved Locations - Connections of such utilities shall be made only at locations approved by the University and only when Contractor's facilities have the approval of the University.
- b) Right to Withdrawal - The University, in its sole discretion, reserves the right to withdraw the furnishing of any or all such utilities. In such event, the Contractor shall furnish its own utilities as it requires, and the University shall make such equitable adjustments as is appropriate under the General Provision entitled *Changes*.

2. Temporary Lighting, Heating, Ventilation and Telephone

The Contractor shall

- a) Furnish and maintain adequate equipment, approved by the Contract Administrator, for temporary lighting, heating and ventilation, as required in all areas during all processes of work;
- b) Maintain minimum temperatures as may be specified in the Specifications and the manufacturer's recommendations;
- c) Maintain lighting and ventilation at levels high enough to afford safety to personnel and to provide suitable environment;
- d) Furnish and maintain, at Contractor's own expense, all telephones required by the Contractor.

3. Tie-ins and Disconnects

For utilities to be installed by the Contractor

- a) Unless otherwise explicitly specified in the Specifications or Drawings, the University will make all tie-ins and disconnects to the existing utilities of the University, all at no charge to the Contractor.
- b) Tie-in Preparations - No work shall be started on a tie-in until the Contractor has performed all necessary excavations and all work required to expose and prepare the area for the tie-in. All materials required for the tie-in shall be provided by the Contractor and shall be on-site before the tie-in begins.

- c) Tie-ins to interior systems or exterior system not described above shall be performed in accordance with requirements in the Specifications or Drawings of this Contract. The Contractor shall include in the total Contract price, all costs, including premium time costs, required to comply with the foregoing requirements. The foregoing applies to all temporary tie-ins as well as those tie-ins required as part of the construction projects.
- d) Ten-Days Notice - At least ten (10) working days in advance, the Contractor shall notify the Contract Administrator of the need for connection services. The University will perform disconnect services upon notification.
- e) Completion of Tie-in - Upon completion of the tie-in or when directed by the Contract Administrator, the Contractor will backfill the excavation and replace or relocate and install as directed, all presently existing safety, security, utility and similar markers and signs affected by construction. All damaged signs shall be replaced by the University at the Contractor's expense.

SP-27, Salvage, Recycling or Disposal of Waste Materials

- A. Salvaged materials, if any, shall be handled as provided in various sections of the Specifications of the Contract.
- B. The Contractor shall be responsible for the removal and disposal of all scrap and waste materials at no additional cost to the University. Waste material includes brush, trees, rock, dirt, abandoned and removed concrete structures or broken concrete, removed building components, removed piping and other utilities, all other removed materials not specified as salvaged materials in various sections of the Specifications of the Contract, and all surplus and waste materials brought to the site by the Contractor. All waste materials generated from construction activities by the Contractor shall be hauled to and disposed of at areas as may be designated by the Contract Administrator. In compliance with the Resource Conservation and Recovery Act, the Contractor is encouraged to find alternative uses for waste materials such as remanufacture into recycled products, or reuse for other legal non-waste purposes. Construction waste not delivered to the Laboratory at a site for disposal, or reused or recycled by the Contractor shall be delivered to Los Alamos County Sanitary Landfill, or disposed of by the Contractor in any lawful manner. A fee may be charged by the County for landfill disposal. Any salvage value from recycling or reuse of waste materials shall be considered to be included in the Contract price. All materials removed from the site are to be handled and disposed of in accordance with DOE Orders, Laboratory requirements, local, state and Federal regulations. The Contractor shall provide to the Contract Administrator's Engineering Representative a weekly truck activity report for every load hauled. This report shall provide the following information:

1. Pick-up location
 2. Approximate weight
 3. Type material
 4. Where dumped
 5. Recycling or alternative uses
 6. Date of pick-up and delivery
- C. Burning of waste material is not permitted.

SP-28, Testing

- A. Unless specifically stated to the contrary in the Specifications of the Contract, all testing shall be performed and paid for by the Contractor. All such tests shall be made in the presence of the Contract Administrator. The Contractor shall notify the Contractor Administrator a minimum of 48 hours in advance of all testing. Should the Contract Administrator waive this right the Contractor shall provide three (3) certified copies of the test results upon completion of the tests made and the results thereof shall be furnished to the Contract Administrator as soon as possible after the tests are made.
- B. Tests to be performed at the University's expense will be performed by the University or an independent testing organization of the University's choice. If initial tests reveal that Contract requirements have not been met, additional testing shall be performed at the Contractor's expense after equipment and facilities have been brought into compliance.
- C. The Contractor shall cooperate fully with the University and its testing organization. The Contractor shall provide personnel and special equipment to provide adjustments and start-up for the University selected organization.
- D. In addition to the foregoing, the Contractor shall perform any additional inspections and testing necessary to insure quality control of the work.

SP-29, Insurance Requirements

(See General Provision entitled *Insurance-Work on a Government Installation*.)

The Certificate of Insurance submitted to the University must name The Regents of the University of California and the U.S. Department of Energy as additional insured and include a “Waiver of Subrogation” in favor of The Regents of the University of California and the U.S. Department of Energy.

The following types of insurance, with coverage of not less than the minimum stated, are required:

<u>Type</u>	<u>Minimum Coverage</u>
Worker’s Compensation & Occupational Disease	Adequate to comply with applicable Federal and State law
Employer’s Liability	Adequate to comply with applicable Federal and State law, but no less than \$100,000
General Liability	
Bodily Injury-comprehensive form	\$500,000 per occurrence
Injury Liability	\$200,000 per person
Automotive Liability, Comprehensive form	
Property damage	\$100,000 per occurrence, minimum
Bodily injury	\$500,000 per occurrence
Other	Statutory requirements for the state in which the work is performed that is sufficient to meet normal and customary claims

SP-30, Charges for Training, Equipment, and Materials Supplied by the University

If the Contractor does not possess some of the personnel training or certification, equipment, materials or other items it is required to have or provide under the Contract, the University in its discretion may offer such items to the Contractor, subject to availability and schedule. For any such items furnished by the University, the Contractor shall reimburse the University’s costs. This reimbursement may be accomplished at the option of the University either by direct check payment from the Contractor or by withholding such sums from payment otherwise due the Contractor. Any such furnishing of training or other items shall not be cause for any extension of time for contract performance by the Contractor nor for any increase in monies otherwise due the Contractor.

SP-31, Liability for Fines and Penalties

If a Federal or state body or other party assesses a fine, penalty, or other assessment for a violation due to performance or failure to perform of one or both parties to the Contract, the parties shall share such assessment in proportion to their relative fault in causing the violation. If under such allocation, the Contractor owes a net amount to the University, the University may collect this amount by check from the Contractor or by offset against amounts otherwise payable to the Contractor. If under such allocation, the University owes a net amount to the Contractor, the University may pay this amount by check or by offset amounts otherwise payable to the University from the Contractor.

SP-32, Reserved

SP-33, Alterations in Contract

Article 33 of General Provisions: Fixed Price Construction Contracts, dated July 15, 1991, entitled “Disputes” is deleted in its entirety and is replaced with Article 33 entitled “Disputes/Arbitration” as follows:

ARTICLE 33. DISPUTES/ARBITRATION

- (a) Definitions. For the purposes of this article:
- (1) “Arbitration decision” means a decision of the Board in an arbitration pursuant to this article.
 - (2) “Board” means the Department of Energy Board of Contract Appeals established by the Secretary of Energy pursuant to Section g(a)(1) of the Contract Disputes Act of 1978, 41 U.S.C. 607 (a)(1).
 - (3) “Claim” means a demand or assertion by either contracting party seeking, as matter of right, the payment of money in a sum certain, the adjustment or interpretation of a contract term, or any other relief arising under, or relating to, this contract.
 - (4) “Counterclaim” means a claim asserted in a pleading filed with the Board in an arbitration pursuant to this article, which claim arises from the same occurrence or transaction related to this contract that is the subject matter of the opposing party’s claim. A counterclaim is not required to be submitted to the Laboratory Procurement Manager.
 - (5) “Rules of the Board” means the Board’s rules promulgated at 10 C.F.R. Part 1023, Subpart A.
- (b) Nature of contract. This contract is not a Government contract and therefore is not subject to the Contract Disputes Act of 1975 (41 U.S.C. 601-613). The parties agree that DOE is not a party to this contract and is not directly liable to the Contractor for claims and disputes within the purview of this article. Further, the parties agree that, for the purposes of this contract, the University is not an agent of DOE, and neither the presence of this article in the contract nor provision for arbitration by the Board shall create or imply privity of contract between the Contractor and DOE.
- (c) Scope of Article. The rights and procedures set forth in this article are the exclusive rights and procedures for resolution of all claims and disputes arising under, or relating to, this contract. The parties shall be bound by an arbitration decision, which shall be enforceable as provided in

the Federal Arbitration Act (9 U.S.C. 1 et seq.) and the terms of this article.

(d) Submission of Claim; Laboratory Procurement Manager's Decision.

(1) Unless otherwise provided in this contract, the Contractor must file any claim against the University within 30 calendar days after the Contractor knew or should have known the facts giving rise to the claim.

(2) The Contractor must submit any claim in writing first to the Contract Administrator, who shall attempt to resolve the matter within a reasonable amount of time. If the Contract Administrator does not resolve the claim in a manner satisfactory to the Contractor, and the Contractor desires to pursue further action, the Contractor must submit the claim in writing to the Laboratory Procurement Manager.

(3) Within sixty days after receipt of the claim, the Laboratory Procurement Manager must issue a written decision or notify the Contractor of the time within which a decision will be issued, which time shall be reasonable, taking into account such factors as the size and complexity of the claim and the adequacy of the information provided by the Contractor in support of the claim. If the Laboratory Procurement Manager fails to issue a written decision within the specified period, the Contractor may demand arbitration by the Board as if the claim had been denied.

(4) The Contract Administrator may also submit a claim against the Contractor in writing to the Laboratory Procurement Manager, who shall issue a written decision.

(5) The decision of the Laboratory Procurement Manager shall be final and conclusive unless the complaining party demands arbitration by the Board in accordance with the terms of this article.

(e) Demand for Arbitration. If the decision of the Laboratory Procurement Manager is not satisfactory to a complaining party, and the complaining party desires to pursue further action, the complaining party must, within 45 days after receipt of the Laboratory Procurement Manager's decision, submit to the Board a written demand for arbitration of the claim. The Board shall arbitrate the claim and any counterclaims in accordance with the Rules of the Board.

(f) Right to Hearing; Costs. In any arbitration pursuant to this article, both parties shall be afforded an opportunity to be heard and present evidence in accordance with the Rules of the Board. Unless the Board orders otherwise, each party shall pay its own costs of prosecuting or defending an arbitration before the Board.

(g) Arbitration Decision. An arbitration decision shall be final and conclusive unless a party within

120 days after receipt of the decision, files an action to vacate, modify or correct the decision pursuant to the Federal Arbitration Act.

- (h) Contractor Performance Pending Claim Resolution. The Contractor shall proceed diligently with performance of this contract and shall comply with any decision of the Contract Administrator or Laboratory Procurement Manager, pending final resolution of any claim or dispute arising under, or relation to, this contract.
- (i) No Other Court Action. No action based upon any claim or dispute arising under, or relating to, this contract shall be brought in any court except as provided in this article.
- (j) Choice of Law. This contract shall be governed by Federal law as provided for in this subparagraph. Irrespective of the place of award, execution of performance, this contract shall be construed and interpreted, and its validity determined, according to the Federal common law of government contracts as enunciated and applied to prime government contracts by the Board and Federal courts having appellate jurisdiction over the decisions of the Board rendered pursuant to the Contract Disputes Act of 1978. The Federal Arbitration Act and other Federal statutes (including the Contract Disputes Act of 1978), Federal rules (including the Federal Acquisition Regulation, the Department of Energy Acquisition Regulation, and the Rules of the Board) shall apply in accordance with their respective provisions.
- (k) Interest. Interest on amounts adjudicated due and unpaid by a party shall be paid from the date the complaining party files a demand for arbitration with the Board. Interest on claims shall be paid at the rate established by the Secretary of the Treasury of the United States pursuant to Public Law 92-41 (85 Stat. 97) for the Renegotiation Board.

SP-34, Environment, Safety, and Health Compliance and Stop Work

- A. The Contractor shall take all reasonable precautions in the performance of the work under the Contract to protect the safety and health of employees and all other persons; minimize danger from all hazards to persons, property and the environment; and shall comply with all applicable health, safety, fire protection, and environmental regulations and requirements, including notification and reporting requirements of the Contractor, the University, and DOE. Additionally, in the performance of work under the Contract, the Contractor shall take all reasonable measures and precautions at all times to prevent injuries to or the death of its employees or any other person. Such measures or precautions shall include, but shall not be limited to, employing all safeguards and posting all warnings necessary to protect workers and others against any conditions which could be dangerous and providing a safe environment designed to prevent accidents of any kind whenever work is being performed under the Contract. The Contractor shall bear the sole responsibility for Environment, Safety, and

Health (ESH) compliance in connection with its work under the Contract and shall indemnify and hold harmless the University from all claims for damages for any injury, damages or death to any person arising from the Contractor's work under the Contract and from all fines, penalties or monetary damages assessed by any regulatory authority arising from the Contractor's work under the Contract.

- B. Without prejudice to any other "Stop Work" rights contained in the Contract, any DOE, University or Contract employee may stop work under the Contract in accordance with the provisions of Laboratory Procedure 116, "Stop Work and Restart." The Contractor shall make no claim for an extension of time or compensation or damages by reason of or in connection with work stopped in accordance with this clause.

SP-35, Economic Development in Northern New Mexico

The Contractor agrees, for work performed at Los Alamos National Laboratory and which requires use of lower-tier subcontractors/suppliers, to utilize firms located in northern New Mexico to the maximum extent possible consistent with prudent business practices and providing best value to the University and the Government.

NOTE: The Following Three Clauses Apply only when and to the extent that the Contractor Will be Performing Unescorted Work Within the "Q" Cleared Security Area.

SP-36, Security

- A. **Responsibility.** It is the Contractor's duty to safeguard all classified information, special nuclear material, and other DOE property. The Contractor shall, in accordance with DOE security regulations and requirements, be responsible for safeguarding all classified information, and protecting against sabotage, espionage, loss and theft, the classified documents and material in the Contractor's possession in connection with the performance of work under this Contract. Except as otherwise expressly provided in this Contract, the Contractor shall, upon completion or termination of this Contract, transmit to the University any classified matter in the possession of the Contractor or any person under the Contractor's control in connection with performance of this Contract. If retention by the Contractor of any classified matter is required after the completion or termination of the Contract and such retention is approved by the University, the Contractor will complete a certificate of possession to be furnished to the University specifying the classified matter to be retained. The certification shall identify the items and types or categories of matter retained, the conditions governing the retention of the matter, and the period of retention, if known. If the

retention is approved by the University, the security provisions of the Contract will continue to be applicable to the matter retained. Special nuclear material will not be retained after the completion or termination of the Contract.

- B. **Regulations.** The Contractor agrees to conform to all security regulations and requirements of DOE.
- C. **Definition of classified information.** The term “classified information” means Restricted Data, Formerly Restricted Data, or National Security Information.
- D. **Definition of restricted data.** The term “Restricted Data” means all data concerning (1) design, manufacture, or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.
- E. **Definition of formerly restricted data.** The term “*Formerly Restricted Data*” means all data removed from the Restricted Data category under section 142 d. of the Atomic Energy Act of 1954, as amended.
- F. **Definition of National Security Information.** The term “*National Security Information*” means any information or material, regardless of its physical form or characteristics, that is owned by, produced for or by, or is under the control of the United States Government, that has been determined pursuant to Executive Order 12356 or prior Orders to require protection against unauthorized disclosure, and which is so designated.
- G. **Definition of Special Nuclear Material (SNM).** The term “*SNM*” means: (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been detained to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.
- H. **Security clearance of personnel.** The Contractor shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12356, and the DOE’s regulations or requirements applicable to the particular level and category of classified information to which access is required.
- I. **Criminal liability.** It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the Contractor or any person under the Contractor’s control in connection with work under the Contract, may subject the Contractor

its agents, employees, or lower-tier subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and E.O. 12356.)

- J. **Lower-tier Subcontracts and purchase orders.** Except as otherwise authorized in writing by the University, the Contractor shall insert provisions similar to the foregoing in all lower-tier subcontracts and purchase orders under the Contract.

SP-37, Classification

In the performance of the work under the Contract, the Contractor shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all documents, material, and goods originated or generated under the Contract in accordance with classification regulations and guidance furnished to the Contractor by the University. Every lower-tier subcontract and purchase order issued hereunder involving the origination or generation of classified documents, material, or goods shall include a provision to the effect that in the performance of such subcontract or purchase order, the lower-tier subcontractor or supplier shall ensure that an Authorized Original Classifier or Derivative Classifier shall assign classifications to all such documents, materials, and goods in accordance with classification regulations and guidance furnished to such lower-tier subcontractor or supplier by the Contractor.

SP-38, Foreign Ownership, Control, or Influence Over Contractor

- A. For purposes of this clause, a foreign interest is defined as any of the following:
1. A foreign government or foreign government agency;
 2. Any form of business enterprise organized under the laws of any country other than the United States or its possessions;
 3. Any form of business enterprise organized or incorporated under the laws of the U.S., or a State or other jurisdiction within the U.S., that is owned, controlled, or influenced by a foreign government, agency, firm, corporation, or person; or
 4. Any person who is not a U.S. citizen.
- B. Foreign ownership, control, or influence (FOCI) means the situation where the degree of ownership, control, or influence over a Contractor by a foreign interest is such that a reasonable basis exists for concluding that the compromise of classified information or a significant quantity of special nuclear material as defined in 10 CFR Part 710, may result.
- C. For purposes of this clause “Contractor” means any contractor at any tier.

- D. The Contractor shall immediately provide the University written notice of any changes in the extent and nature of FOCI over the Contractor that would affect the answers to the questions in the Certification submitted for the solicitation that resulted in the Contract. Further, notice of changes in ownership or control that are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice shall also be furnished concurrently to the University.
- E. In those cases where a Contractor has changes involving FOCI, the DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, the DOE shall consider proposals made by the Contractor to avoid or mitigate foreign influences.
- F. If the DOE at any time determines that the Contractor is or is potentially subject to FOCI, the subcontractor shall comply with such instructions that the University shall provide in writing to safeguard any classified information or significant quantity of special nuclear material.
- G. The Contractor agrees to insert terms that conform substantially to the language of this clause, including this paragraph (g), in all lower-tier subcontracts under the Contract that will require access to classified information or a significant quantity of special nuclear material. The Contractor shall also require such lower-tier subcontractors to submit a completed certification required in DEAR 952.204-73 and covered in University Form 812 before award of a lower-tier subcontract. Information to be provided by a lower-tier subcontractor pursuant to this clause will be submitted to the University.
- H. Information submitted by a Contractor as required pursuant to this clause shall be treated by the University and the DOE to the extent permitted by law as business or financial information submitted in confidence to be used solely for purposes of evaluating FOCI.
- I. The requirements of this clause are in addition to the requirement that a Contractor obtain and retain the security clearances required by the Contract. This clause shall not operate as a limitation on the University's or the DOE's rights, including the University's right to terminate the Contract.
- J. The University may terminate the Contract for default if
 - 1. The Contractor fails to meet obligations imposed by this clause, e.g., provide the information required by this clause, comply with the University's instructions about safeguarding classified information, or make this clause apply to lower-tier subcontractors; or

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2. In the University's judgment, the Contractor creates a FOCI situation to avoid performance or a termination for default. (The University may terminate the Contract for convenience if the Contractor becomes subject to FOCI and for reasons other than avoidance of performance of the Contract cannot or chooses not to avoid or mitigate the FOCI problem.)